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July 5, 2000

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cc: McAteer
Turner

Mr. Richard C. Nelson
United States Department of the Interior
Fish and Wildlife Service
Rock Island Field Office
4469 48th Avenue Court
Rock Island, IL 61201

TJ

Mr. Steve Davis
Illinois Waste Management and Research Center
Natural Resource Trustee Program
928 South Spring Street
Springfield, Illinois 62704

Re: Contaminant Removal in Dead Creek

Dear Mr. Nelson & Mr. Davis:

You have both sent identical letters to Mr. Mike Light at Solutia addressing concerns regarding the recently issued Unilateral Administrative Order ("UAO") regarding removal of Dead Creek sediment. You have made one statement in those letters that is inconsistent with the requirements of the NCP and another statement with respect to representation that is difficult to understand in consideration of the facts I present below.

First, you state that "since neither the Service nor IDNR were provided the opportunity to participate in the planning of the proposed removal or remedial actions, it is difficult to understand how the proposed actions covered by the UAO are compliant with the NCP and CERCLA." The NCP and CERCLA do not require the involvement of Natural Resource Damage Trustees ("NRD Trustees") in UAOs issued regarding time critical removal actions. The sections of the statute and regulations you cite are not on point. The UAO, which is the subject of your letters, was issued by the government under 42 U.S.C. §9606(a) and involves work it has ordered Solutia to undertake. There is nothing in the statute or regulation that mandates that NRD trustees be involved in the UAO decision making process prior to issuance of the UAO. Thus, your implication that the UAO may be inconsistent with the NCP because the government did not involve NRD Trustees prior to the UAO issuance is not supported by NCP requirements.

July 5, 2000

Page 2

In addition, your assertions regarding lack of involvement are difficult to understand given the following information. The Illinois Natural Resource Trustees were involved in U.S. EPA's decision to issue the UAO. Ms. Candy Morin, one of the State of Illinois' designated NRD Trustees, has been aware of everything that has been going on with Dead Creek issues for many years now. Ms. Morin has attended numerous meetings and she gave input on the UAO.

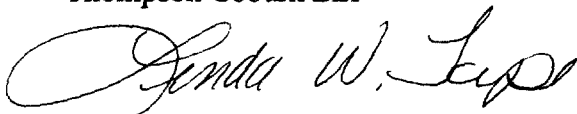
IDNR, who has concurrent NRD Trustee authority with IEPA, has been copied in on many documents relating to the site, including Brent Manning, on a Special Notice Letter sent concerning the Engineering Evaluation and Cost Assessment/Remedial Investigation Feasibility Study for Sauget Area 1, dated September 9, 1998. Further, Mr. Davis is on the mailing list for Region V for the Sauget Sites. Mr. Davis, in addition to Ms. Morin, was in attendance at a meeting in Sauget, Illinois in February, 2000 where the concepts of the work that was being considered, which work is now set forth in the UAO for Dead Creek sediment, was presented and discussed by EPA. IDNR and IEPA both had representatives attend a June 13, 2000 meeting in Sauget, Illinois to discuss the implementation of the UAO. This information indicates that the Illinois NRD Trustees have received ample notice of the work that U.S. EPA is doing in Sauget and have had ample opportunity for input in planning that has taken place.

Also present at the June 13, 2000 meeting was a representative of the Fish and Wildlife Services. Prior to the issuance of the UAO, the federal NRD trustees had also had chances for input on issues regarding Sauget. In fact, EPA copied DOI on correspondence regarding the investigatory work to be done by Solutia under the 1999 AOC. In addition, DOI gave input to the Ecological Risk Assessment that EPA undertook for parts of Sauget in 1993.

Based on the fact that there were numerous NRD Trustees present at the June 13, 2000 meeting on the UAO and based on representations made to Mike Light, that agreed to communication protocols are acceptable to meet the NRD Trustee needs at this point in the project, the meeting requested in your letter is now unnecessary. If this is not the case, please let us know.

Very truly yours,

Thompson Coburn LLP

A handwritten signature in cursive script, appearing to read "Linda W. Tape".

By

Linda W. Tape

LWT/cn

July 5, 2000
Page 3

cc: D. Michael Light, Project Manager, Solutia
Brent Gilhousen, Esq., Solutia
Tom Martin, Esq., U.S. EPA ✓
William Child, IEPA BOL
George Vander Velde, Director, WMRC